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9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-137

13 RONNIE JAY SMITH  
6301 Atlantic Ave., Unit 29  
14 Long Beach, CA 90805

**A C C U S A T I O N**

15 Registered Nurse License No. 564621

16 Respondent.  
17  
18

19 Complainant alleges:

20 **PARTIES**

21 1. Complainant Ruth Ann Terry, M.P.H., R.N., brings this Accusation solely  
22 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs, State of California (Board).

24 2. On or about March 3, 2000, the Board issued Registered Nurse License  
25 Number 564621 to Ronnie Jay Smith (Respondent). The Registered Nurse License was in full  
26 force and effect at all times relevant to the charges brought herein and will expire on July 31,  
27 2009, unless renewed.

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**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All Section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Business and Professions Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to pursue any investigation, action or disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may reinstate a license at any time within eight years after its expiration.

6. Section 118, subdivision (b), states:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a Board in the department, or its suspension, forfeiture, or cancellation order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

7. Section 2761 states, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

“(d) Violating or attempting to violate, directly or indirectly, or assisting

1 in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the  
2 Nursing Practice Act] or regulations adopted pursuant to it.

3 . . . .

4 “(f) Conviction of a felony or of any offense substantially related to the  
5 qualifications, functions, and duties of a registered nurse, in which event the record of the  
6 conviction shall be conclusive evidence thereof. . . .”

7 8. California Code of Regulations, title 16, section 1444, states, in pertinent  
8 part:

9 “A conviction or act shall be considered to be substantially related to the  
10 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
11 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
12 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the  
13 following:

14 “(a) Assaultive or abusive conduct including, but not limited to, those  
15 violations listed in subdivision (d) of Penal Code Section 11160.

16 “(b) Failure to comply with any mandatory reporting requirements.

17 “(c) Theft, dishonesty, fraud, or deceit.

18 “(d) Any conviction or act subject to an order of registration pursuant to  
19 Section 290 of the Penal Code.”

20 9. Section 2765 of the Code provides:

21 “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
22 made to a charge substantially related to the qualifications, functions and duties of a registered  
23 nurse is deemed to be a conviction within the meaning of this article. The board may order the  
24 license or certificate suspended or revoked, or may decline to issue a license or certificate, when  
25 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or  
26 when an order granting probation is made suspending the imposition of sentence, irrespective of  
27 a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such

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1 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
2 verdict of guilty, or dismissing the accusation, information or indictment.”

3           10.     Section 125.3 provides, in pertinent part, that the Board may request the  
4 administrative law judge to direct a licentiate found to have committed a violation or violations  
5 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
6 enforcement of the case.

7                           **FIRST CAUSE FOR DISCIPLINE**

8                           **(Conviction of Crimes Substantially Related To the Qualifications,  
9                           Functions and Duties of a Registered Nurse)**

10                           **DRIVING WITH EXCESSIVE BLOOD ALCOHOL**

11           11.     Respondent is subject to disciplinary action under sections 2761,  
12 subdivision (f), and 2765 as defined in California Code of Regulations, title 16, section 1444,  
13 subdivision (a) , in that Respondent was convicted of a crime that is substantially related to the  
14 qualifications, functions of duties of a registered nurse. On March 10, 2004, in a criminal  
15 proceeding entitled *People v. Smith* (Super. Ct. Los Angeles County, 2003, No. 3WL20237),  
16 Respondent was convicted of violating Vehicle Code section 23152, subdivision (b)  
17 (misdemeanor driving with a blood alcohol concentration of 0.08 percent or greater).

18           a.     The circumstances surrounding the conviction are that on December 9,  
19 2003, police officers from the Hawthorne Police Department responded to an anonymous report  
20 of a person possibly under the influence leaving the scene of a hit and run accident. When  
21 contacted, Respondent admitted that he had hit the rear of a vehicle, that it was his fault, and that  
22 he would pay for the damages. While speaking to Respondent, the officers noticed that his  
23 speech was slurred, his eyes were bloodshot or watery, and his gait was unsteady. Based on  
24 Respondent’s poor performance of field sobriety tests (FST’s), the officers transported him to the  
25 Hawthorne Police Department where he submitted to a blood test. The results of the blood test  
26 showed that Respondent was driving while he had a 0.29 percent by weight of alcohol in his  
27 blood. Respondent was booked for violating Vehicle Code sections 23152, subdivisions (a)  
28 [driving under the influence], and (b) [driving with an excessive blood alcohol level], and

1 Vehicle Code section 20002, subdivision (a) [failure to notify and report property damage to  
2 vehicle owner], and his car was impounded.

3 b. On or about December 18, 2003, an employee of the impound lot where  
4 Respondent's vehicle was being stored, recovered a loaded revolver, with the hammer cocked to  
5 the rear, from the rear cup holder/fold down compartment of the vehicle. Respondent  
6 spontaneously stated to the employee, "Hey, man. Say you found it in the trunk."

7 c. On January 13, 2004, Respondent was charged with three misdemeanor  
8 counts: driving under the influence (Veh. Code section 23152, subd. (a), driving with an  
9 excessive blood alcohol level (Veh. Code section 23152, subd. (b), and hit and run/property  
10 damage (Veh. Code section 20002, subd. (a).)

11 d. On March 10, 2004, as part of a plea bargain, Respondent pled nolo  
12 contendere to violating Vehicle Code section 23152, subdivision (b) (driving with an excessive  
13 blood alcohol level), in exchange for the court dismissing the other two misdemeanor counts.  
14 The court placed Respondent on 36 months' summary probation contingent upon his enrollment  
15 in a 6-month licensed First-Offender Alcohol and Other Drug Education and Counseling  
16 Program, attendance at least 40 AA meetings and payment of \$1,234.00 in fines.

17 e. On March 10, 2005, the court approved attendance at a 6 month alcohol  
18 program for Respondent in the State of Louisiana. On December 29, 2005, the court revoked  
19 respondent's probation when he failed to appear in court and show proof of completion of  
20 community service and payment of court-ordered fees. The court issued a bench warrant for  
21 \$35,000.00. The bench warrant was recalled on March 15, 2006. On March 5, 2007,  
22 Respondent appeared in court with proof of completion of community service with Cal-Trans in  
23 lieu of payment of \$268.00 in fines. On May 7, 2007, Respondent appeared in court with proof  
24 of completion of an alcohol program and his probation was reinstated.

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1                   b.     On June 17, 2003, Respondent came to the police station and was arrested.  
2 On July 17, 2003, Respondent was charged with two misdemeanor counts of battery in violation  
3 of Penal Code section 242.

4                                   **THIRD CAUSE FOR DISCIPLINE**

5                                   **(Unprofessional Conduct)**

6                   13.     Respondent is subject to disciplinary action pursuant to Section 2761,  
7 subdivision (a) (unprofessional conduct), because of her actions on or about June 11, 2003, and  
8 December 9, 2003, that resulted in her misdemeanor convictions on March 10, 2004, for driving  
9 with an excessive blood alcohol level and for battery. Respondent's driving with a loaded  
10 firearm in his vehicle also constitutes unprofessional conduct. The factual allegations describing  
11 the unprofessional conduct are described more fully in paragraphs 11 and 12 above, and  
12 incorporated herein by reference as though re-alleged in full.

13                                   **FOURTH CAUSE FOR DISCIPLINE**

14                                   **(Violating Provisions of the Nursing Act)**

15                   14.     Respondent is subject to disciplinary action pursuant to Section 2761,  
16 subdivision (d), because of his misdemeanor convictions of driving with an excessive blood  
17 alcohol concentration and for battery and because of his driving with a loaded firearm in his  
18 vehicle. The factual allegations describing the unprofessional conduct are described more fully  
19 in paragraphs 11 and 12 above, and incorporated herein by reference as though re-alleged in full.

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21                                   **PRAYER**

22                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
23 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 24                   1.     Revoking or suspending Registered Nurse License Number 564621, issued  
25 to Respondent;  
26                   2.     Ordering Respondent to pay the Board of Registered Nursing the


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1 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
2 125.3; and

3 3. Taking such other and further action as deemed necessary and proper.

4  
5 DATED: 12/8/08

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7   
8 RUTH ANN TERRY, M.P.H., R.N.  
9 Executive Officer  
10 Board of Registered Nursing  
11 Department of Consumer Affairs  
12 State of California  
13 Complainant

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